

REMARKS

The present application has 20 claims, with Claims 1 and 18 being independent claims. Claims 18 - 20 are allowed. Claims 1-17 are rejected.

Claims 1, 4, 6-8, 10, 12-13, and 15-16 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2005/004719 to Tomberg. Claims 2, 3, 5, 9, 11, 14, and 17 were rejected under 35 U.S.C. §103(a) under Tomberg and under Tomberg and other references. Finally, Claims 1-17 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting in light of Tomberg.

In response, the Applicant has amended Claim 1 with the limitations of dependent Claim 3. The Applicant further submits a statement of common ownership and a terminal disclaimer.

STATEMENT OF COMMON OWNERSHIP PURSUANT TO MPEP §706.02(I)(2)(II):

The current application, Application Serial No. 10/707,421, and Publication No. US 2005/0047914 A1 were, at the time the invention of Application Serial No. 10/707,421 was made, owned by General Electric Company.

The Applicant notes that on its face, Publication No. US 2005/0047914 A1 states that the assignee is General Electric Company. Further, an assignment from Tomberg to General Electric Company was recorded in the PTO at Reel 014460 and Frame 0771 on September 3, 2003. Likewise, assignment of the present application was recorded at Reel 014189 and Frame 0874 on December 12, 2003.

Because General Electric Company owned Tomberg and the present application at the time the present invention was made, Tomberg should not qualify as prior art on

the basis of 35 U.S.C. §103(c). As such, the Applicant respectfully submits that Claim 1, as amended, is patentable.

TERMINAL DISCLAIMER

The owner, General Electric Company, of the entire interest in the above-identified present application hereby disclaims, except as provided below, the terminal part of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Serial No. 10/653,349, filed on September 3, 2003. The owner hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that said patent and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the present application and is binding upon the grantee of such patent, its successor or assigns. Statements Under 37 C.F.R. §3.73(b) indicating ownership of present application and the second application are submitted herewith.

In making the above disclaimer, the owner does not disclaim any terminal part of any patent granted on the present application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent on the second application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in

any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

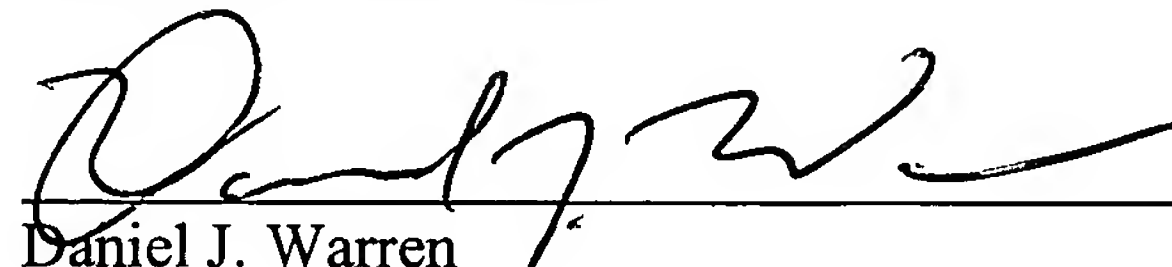
The fee required by 37 CFR § 1.20(d) accompanies this disclaimer.

The undersigned is an attorney of record and is empowered to act on behalf of the owner.

CONCLUSION

The Applicant believes it has responded to each matter raised in the Office Action. Allowance of all claims is respectfully solicited. Any questions may be directed to the undersigned at 404.853.8028.

Respectfully submitted,


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